

Agenda Date: August 29, 2001
Item Number: **2D**

Docket: **UT-010558 – Cessation of Telecommunications Service**
Company Name: Telecommunications General

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Recommendation

Direct the Secretary to file a Notice of Proposed Rulemaking (CR-102) in Docket No. UT-011558, in order to revise WAC 480-120-083. Adopt an emergency rule to become effective on or before September 7, 2001, with a text identical to the current emergency rule.

Background

In April of this year staff recommended adopting emergency rules requiring telecommunications companies providing local services typically used to access E911 to provide notice prior to ceasing business. This was in response to a growing number of business failures. In response, the Commission adopted WAC 480-120-083 (attached) on an emergency basis on May 10, 2001. On June 6, 2001, the Commission filed a CR-101 to begin the process of adopting permanent rules governing cessation of telecommunications service. A notice announcing the Commission's consideration of the rulemaking was distributed widely, and a workshop with interested persons was held on June 28, 2001 in Seattle. Written Comments were received by July 13 from local exchange, long distance and consumer interests. A small business economic impact (SBEIS) analysis has been completed.

The emergency rule will expire on September 8, 2001. An identical or substantially similar emergency rule may not be adopted in sequence unless the agency has filed a CR-102 showing that it intends to adopt a permanent rule. Staff recommends that the Commission adopt an identical emergency rule on or before September 8, 2001, to continue to have an emergency rule in effect until a permanent rule is adopted.

Thirty-three telecommunications companies in Washington have filed to cease doing business in 2001. Ten out of the 33 companies are considered to be competitive local exchange companies (CLECs) that provide basic local exchange switched voice grade access. If a customer lost that service they would also lose their E911 access. The other 23 companies provide a variety of data and long distance services. Currently, several more companies are involved in bankruptcy proceedings and may go out of business soon. Even though the Commission did not receive comments yet from smaller businesses, staff knows from the survey responses that these companies are aware of the draft rule. One company that responded to the SBEIS survey also indicated that it was days away from going out of business. Another small company indicated that it already follows the procedures set forth in the draft rule nationally. Staff's experience has been that by virtue of having an emergency rule in place, customers of

numerous carriers are better served at a critical time because compliant carriers must provide notice of cessation, and important information necessary to facilitate transition to a new provider, 30 days prior to cessation. Because the emergency rule does not cover DSL, or long distance providers, 23 companies going out of business did not have to comply with the notice requirements in the emergency rule. Given the unclear status of market conditions, there is no way of knowing for sure whether more business failures will occur, or for what types of services.

Analysis of Proposed Rules

The rulemaking process has led to proposed rule language needed to implement the intent of the emergency rules and make them permanent. The rule proposed rewrites the emergency rule and has greater coverage and effect. The emergency rule focused on loss of 911 access, considering that loss a direct risk to public health and safety. The proposed revisions (attached) provide for notice in situations that, while not health-threatening emergencies, will benefit consumers in maintaining telecommunications service.

The proposed rules require notice to the following parties, as applicable: customers, the Commission, customers that are also telecommunications companies, incumbent local exchange companies when unbundled network elements (UNEs) are involved, telecommunications companies that are suppliers, State E911, and the national numbering administrator. The required content of these notices is described in detail, depending upon which of the entities listed above is being notified. The rules require that information necessary to facilitate transition of service to a new provider is made available. Emergency, public health, safety and welfare conditions are attended to. Management of scarce number resources is facilitated by requiring notice to the national numbering administrator.

The proposed rules focus on provision of necessary information to help customers replace their service, including, at Public Counsel's suggestion, the Commission's toll free consumer hotline number. Particular provisions related to important circuit information and UNEs were adapted from comments filed by Qwest. The rules require voice service providers to provide automatic announcements at the beginning of each call to inform customers of impending cessation of service, a feature of the Commission's existing rules governing pre-paid calling card services, which has been cut from existing WAC 480-120-052 and pasted in this draft.

The rules do not impose new constraints on remaining carriers except to facilitate new service. However, the rules provide several references to general rules that apply normally to situations such as when mergers or transfers of property occur, slamming, and staff review of draft notices. Public Counsel has suggested that the notice to customers also make mention of the Commission's rules governing line extensions, however, it is not clear to staff that this reference is necessary.

Incumbent local exchange companies and large long distance carriers have voiced concern that

the rules are unduly burdensome, and should not be broadened beyond the emergency rule. However, analysis of SBEIS survey responses indicates that the rule mainly affects the companies that might potentially go out of business, not dominant or well-established firms. Staff recognizes that when companies go out of business there is a potential for difficulty, not only for consumers, but also for remaining carriers. Therefore, the proposal attempts to strike a balance between consumer and utility interests.

Conclusion

Direct the Secretary to file a Notice of Proposed Rulemaking (CR-102) in Docket No. UT-011558, in order to revise WAC 480-120-083. Adopt an emergency rule to become effective on or before September 7, 2001, with a text identical to the current emergency rule.

Attachments

Attachment – Currently in effect emergency rule

WAC 480-120-083 Notice of Cessation of Certain Telecommunications Services

(1) No telecommunications company may cease to provide a covered service in the state of Washington unless it first provides written notice to the commission, the state 911 program, to each of its customers that is a telecommunications company, and to each of its customers for a covered service of its intention at least 30 days before it ceases to provide service.

(a) For purposes of this section, “covered service” means local exchange service, private branch exchange service (PBX), Centrex service, and private line service.

(b) The notice to the commission and the state 911 program must, at a minimum, include the name of the company, the date covered service will cease, and the number of customers and their location described by exchange or by city and county.

(c) The notice to customers must, at a minimum, include the date covered service will cease and telephone contact information for a customer or a customer’s representative to obtain service information needed to establish service with another company.

(2) A company ceasing a covered service must inform the commission and the state 911 program within twenty-four hours of the cessation of the covered service of the number and location of customers, by exchange or by city and county, that remained as customers for the covered service when service ceased.

(3) This rule does not apply to:

(a) Services offered by tariff that are subject to the statutory notice requirements of RCW 80.36.110;

(b) Termination of a service as provided for by the terms of a contract between the company and the customer when the notice provision for termination is 30 days or longer;

(c) Discontinuance of service to an individual customer in compliance with WAC 480-120-081; and

(d) Cessation of a service when the terminated service is replaced, without interruption, by a comparable service.

Attachment – Proposed Rules, August 23, 2001

WAC 480-120-083 Cessation of Telecommunications Services

(1) No telecommunications company may cease to provide telecommunications services in the state of Washington unless it first provides written notice to the following persons at least 30 days in advance of cessation of service:

- (a) to the commission;
- (b) to the state 911 program, in the instance of local exchange service, private branch exchange service (PBX), centrex, or private line service used in the provision of emergency services related to the state 911 program;
- (c) to each of its customers, including customers that are telecommunications companies;
- (d) to incumbent local exchange carriers (ILECs) providing the exiting telecommunications company with unbundled network elements (UNEs) pursuant to the Telecommunications Act of 1996, 47 U.S.C. Section 151 *et seq.*, if UNEs or combinations of UNEs are part of a telecommunications service provided to some or all of the exiting telecommunications company's customers;
- (e) to each telecommunications company providing the exiting telecommunications company with resold telecommunications service, if resold service is part of a telecommunications service provided to some or all of the exiting telecommunications company's customers;
- (f) to the national number administrator authorizing the release of all assigned telephone numbers to other telecommunications companies and releasing all unassigned telephone numbers to the number administrator.

(2) The notice to the commission and the state 911 program required in subsections (1)(a) and (b) must, at a minimum, include the name of the exiting telecommunications company, and for each category of service, provide the date each telecommunications service will cease, and the number of customers for each telecommunications service and their location, described by exchange or by city and county for each telecommunications service being ceased.

(3) The notice to customers required in subsection (1)(c) must, at a minimum, include the date telecommunications service will cease and information on how to contact the exiting telecommunications company by telephone in order to obtain service information needed to establish service with another provider, and to explain how customers may receive a refund on any unused service. In addition:

- (a) beginning at least fifteen days before cessation of voice service, the exiting telecommunications company must provide oral notice of cessation of service at the beginning of each call originated in Washington, including the date of cessation of service and a number to call for more information; and
 - (b) the exiting company must provide information to consumers via its customer service number outlining the procedure for obtaining refunds and continue to provide this information for sixty days after the date of cessation of service,
 - (c) the Commission's consumer hotline number, 1-800-562-6150.
- (4) The notice to ILECs required in subsection (1)(d) must, at a minimum, include the date

telecommunications service will cease, and identify the UNE components in relationship to the service information provided to the customer when such information differs from the ILEC's identification information of such services as billed to the exiting telecommunications company. For example, if the ILEC identifies a UNE loop with a circuit identification number, the exiting telecommunications company must provide the ILEC with the customer telephone number assigned to the ILEC's UNE loop circuit identification number. The notice must also include telephone contact information to enable the ILEC or new provider to obtain UNE service and circuit identification information needed to establish service for a customer who will no longer receive service from the exiting telecommunications company.

- (a) ILECs shall provide the information in the notice(s) required in this subsection to the subsequent provider upon a request authorized by the customer,
- (b) ILECs may not use the information in the notice(s) required in this subsection to initiate marketing efforts.

(5) The notice to suppliers required in subsection (1)(e) must, at a minimum, include:

- (a) the date telecommunications service will cease, and identification of the resold service element components in relationship to the service information provided to the customer when such information differs from the supplier's identification information regarding such services as billed to the exiting telecommunications company;
- (b) telephone contact information to enable the regulated supplier or new provider to obtain underlying service and circuit identification information needed to establish comparable replacement service for a customer who will no longer receive service from the exiting telecommunications company.

Telecommunications companies that are suppliers, pursuant to this subsection, shall provide the information in the required notice(s) to the subsequent provider upon a request authorized by the customer.

(6) The notice required in subsection (1)(f) to the national number administrator authorizing the release of all assigned telephone numbers to the succeeding providers shall include identification of all working telephone numbers assigned to customers, identification of all unassigned or administrative numbers available for reassignment to other providers and the date such unassigned telephone numbers will be available for reassignment. The exiting telecommunications company shall authorize the release of each individual assigned customer telephone number(s) to subsequent providers selected by the customer.

(7) A telecommunications company ceasing a local exchange service, a PBX service, a centrex service, or a private line service used in the provision of emergency services related to the state 911 program must inform the commission and the state 911 program within twenty-four hours of the cessation of telecommunications service of the number of customers and their location, listed by exchange or by city and county, that remained as customers for the telecommunications service when service ceased.

- (8) This rule does not apply to:
- (a) Services offered by tariff that are subject to the statutory notice requirements of RCW 80.36.110 (Tariff Changes – Statutory Notice – Exception);
 - (b) Discontinuance of service to an individual customer in compliance with WAC 480-120-081 (Discontinuance of Service); and
 - (d) Cessation of a service when the provider replaces the terminated service with comparable service and without interruption. For example, the notice requirements of this rule do not apply when a LEC providing Centrex with one group of features replaces that service, without interruption, with a version of Centrex that has different group of features.
- (9) Changes in customers' service providers for local exchange and intrastate toll services when there is a cessation of service are also subject to WAC 480-120-139 (changes in local exchange and intrastate toll services).